



U.S. Department of Justice

SDR:DH:cw
90-7-1-21

US EPA RECORDS CENTER REGION 5



515120

Washington, D.C. 20530

August 12, 1983

Stephen Shakman, Esq.
Attorney General's Office
Minnesota Pollution Control Agency
1935 W. County Road B2
Roseville, Minnesota 55113

Robert E. Leininger, Esq.
Assistant Regional Counsel
U.S. Environmental Protection Agency
230 South Dearborn Street
Chicago, Illinois 60604

Deborah Woitte, Esq.
Office of Enforcement Counsel
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Re: United States v. Reilly Tar & Chemical Corp.

Dear Steve, Bob and Debbie:

I am enclosing a draft Stipulation to dismiss without prejudice the Housing and Redevelopment Authority of St. Louis Park as a party in this lawsuit in exchange for the unrestricted right to run amok on the property. Please give me your comments so that I may incorporate them into a final draft for Al Hinderacker. Thank you.

Sincerely yours,

Assistant Attorney General
Land and Natural Resources Division

By:

David Hird, Attorney
Environmental Enforcement Section

Enclosure

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

and

STATE OF MINNESOTA, by its
Attorney General Hubert H.
Humphrey, III, its Department
of Health, and its Pollution
Control Agency,

Civil No. 4-80-469

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION;
HOUSING AND REDEVELOPMENT AUTHORITY
OF ST. LOUIS PARK; OAK PARK VILLAGE
ASSOCIATES; RUSTIC OAKS CONDOMINIUM
INC.; and PHILIP'S INVESTMENT CO.,

Defendants.

and

CITY OF ST. LOUIS PARK,

STIPULATION

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

and

CITY OF HOPKINS,

Plaintiff-Intervenor,

v.

REILLY TAR & CHEMICAL CORPORATION,

Defendant.

WHEREFORE the United States of America, the State of Minnesota and the City of St. Louis Park are plaintiffs in this action and have sued the Reilly Tar & Chemical Corporation to redress contamination at its former plant site in St. Louis Park, Minnesota (hereinafter the "Reilly site");

WHEREFORE the United States of America and the State of Minnesota have also sued the Housing and Redevelopment Authority of St. Louis Park ("HRA") as successor in interest to part of the Reilly site for purposes of obtaining access to sample and test and for the purposes of effectuating a remedy to the contamination of the site;

WHEREFORE the City Council of the City of St. Louis Park has the statutory authority to appoint the Board of Directors of the HRA, including the power to appoint itself as the Board of Directors;

WHEREFORE cross-claims have been filed in this action by defendants Phillips's Investment Co. and TCF Service Corp., successor in interest to Rustic Oaks Condominium, Inc., against the HRA;

IT IS HEREBY STIPULATED AND AGREED by the United States, the State of Minnesota, the City of St. Louis Park and the HRA that within 30 days of the filing of this Stipulation with the Court, the United States and the State of Minnesota will seek an order of the court under Rule 41(a)(2) of the Federal Rules of Civil Procedure dismissing their claims against the HRA. Such dismissal shall be without prejudice and shall be upon the following terms and conditions:

1. The HRA will provide free and unrestricted access at all times to all portions of the Reilly site to the United States, the State of Minnesota, their agencies, agents, employees or contractors.

2. The HRA will permit without restriction the United States and the State of Minnesota to conduct any testing, sampling, analysis, or other investigatory or data collection work at the Reilly site, which the United States or the State, through their agencies, agents, employees or contractors, may determine is necessary or useful in investigating natural conditions at the site, investigating the efficacy of any response, remedial or removal action under consideration for treating contamination at the site; or preparing this case for trial.

3. The HRA will permit without restriction the United States, the State of Minnesota, their agencies, agents, employees or contractors to prepare and conduct any response, remedial or removal action on the Reilly site to treat or remove any contamination or release or threatened release of contaminants, including but not limited to response, remedial and removal actions to prevent or minimize the movement of contaminants off the Reilly site, which their agencies, agents, employees or contractors may determine to undertake.

4. The HRA will permit without restriction the United States, the State of Minnesota, their agencies, agents, employees or contractors to bring, use or store any equipment or materials on the Reilly site, which the agencies, agents, employees, or contractors of the United States or the State deem necessary or

useful to perform the activities described in paragraphs 2 and 3 above.

5. The HRA and the City of St. Louis Park shall provide without restriction all easements, rights of way, licenses or permits which the United States, the State of Minnesota, their agencies, agents, employees or contractors may, in their sole discretion, find necessary or useful in accomplishing the activities described in paragraphs 1 to 4 above. To the extent that HRA or the City of St. Louis Park does not have the sole power to grant the aforementioned easements, rights of way, licenses or permits, the HRA and the City of St. Louis Park shall employ good faith efforts to assist in obtaining them.

6. Should this Court order any investigatory, response, remedial or removal action to be undertaken on the Reilly site, the HRA shall permit that action to be undertaken without restriction and shall provide such access, cooperation or assistance as the Court deems necessary or useful in implementing its order.

7. The HRA, which will remain a party in this action after the proposed dismissals by virtue of the cross-claims brought against it, agrees that it shall comply with the terms and conditions of this Stipulation and with any requests under Rules 26-37 of the Federal Rules of Civil Procedure made by the United States or the State of Minnesota until final judgment is rendered in this action or any final order expires or all appeals are concluded, whichever is later. Should the HRA cease to be a party in this action, the HRA agrees nonetheless to abide by the terms of this

Stipulation as if it were a party and subject itself to the authority of this court to enforce this Stipulation as if it were a party.

8. The United States and the State of Minnesota may reinstate their claims against the HRA, at any time prior to final judgment, by filing with the Court a notice reinstating the complaints already on file with the Court.

9. The City of St. Louis Park agrees to use its authority and its good faith efforts to insure that the HRA abides by the terms of this Stipulation. The City further agrees to exercise its power to appoint the Board of Directors of the HRA, if necessary to provide the United States, the State of Minnesota or the Court with the access to the Reilly site and permission to undertake activities on the Reilly site described in paragraphs 1-6 above. The City shall be bound to the terms of this Stipulation to the same extent as the HRA.

10. Neither this Stipulation, nor the proposed dismissals without prejudice of the claims which the United States or the State of Minnesota have raised against the HRA, shall constitute a release of any of those claims or a covenant not to sue the HRA by the United States or the State.

Each of the signatories of this Stipulation warrants that he or she has the legal authority to bind the party on whose behalf he or she signs.